

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayer
Marshall Johnson
Ken Nickolai
Phyllis A. Reha
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Redwood
County Telephone Company for an Amended
Certificate of Authority to Provide Facilities-
Based and Resold Local Services to the
Redwood Falls Exchange

ISSUE DATE: October 31, 2003

DOCKET NO. P-424/NA-03-1304

ORDER GRANTING AMENDED
CERTIFICATE WITH CONDITIONS

PROCEDURAL HISTORY

On August 11, 2003, Redwood County Telephone Company (RCTC) filed its petition for an amended certificate of authority to permit the Company to provide facilities-based and resold local services in the Redwood Falls exchange served by Qwest Corporation (Qwest).

On August 18, 2003, the Department of Commerce (DOC) filed comments recommending conditional approval of RCTC's request to amend its certificate of authority to expand its service area.

On August 27, 2003, the City of Redwood Falls filed comments raising concerns with RCTC being granted a certificate to provide service in the Redwood Falls exchange.

On September 2, 2003, New Ulm Telecom, Inc. (New Ulm) requested that the Commission deny RCTC's request.

On September 11, 2003, the DOC filed supplemental comments recommending that, conditional on the consent of the City of Redwood Falls and New Ulm, the Commission grant RCTC's petition with certain conditions.

On September 19, 2003, RCTC filed reply comments.

On October 1, 2003, RCTC filed reply comments to the September 11, 2003, supplemental comments of the DOC agreeing to the conditions proposed by the DOC.

On October 2, 2003, New Ulm filed additional comments. New Ulm continued to object to RCTC's application.

This matter came before the Commission on October 16, 2003.

FINDINGS AND CONCLUSIONS

I. Background and RCTC's Request

RCTC is the incumbent local exchange carrier serving over 4,000 subscribers in ten exchanges in Redwood county and adjacent areas.

RCTC requested that its Certificate of Authority be amended to permit the provision of facilities-based and resold local services in the Redwood Falls exchange served by Qwest. RCTC's application stated that the services offered to customers in the Redwood Falls exchange will be provided on the same terms and conditions as those provided to its customers in other local exchanges it serves.

RCTC argued that it has the managerial, technical, and financial resources to be a reliable provider of facilities-based and resold services in the Redwood Falls exchange.

II. Comments of the Parties

A. City of Redwood Falls

The City of Redwood Falls expressed concern that RCTC would not serve all customers in the service territory. It argued that RCTC should be required to provide service to the entire territory within the statutorily required three year time and significant penalties should be imposed if RCTC fails to comply. Further, the City argued that RCTC should be required to post a performance bond as a condition of certification.

B. New Ulm

New Ulm requested that RCTC's application to amend its certificate of authority be denied. It argued that Redwood Falls Telephone Company (RFTC), a wholly-owned subsidiary of RCTC, had previously been granted a conditional certificate of authority to provide service in the Redwood Falls exchange. However, RFTC never served the Redwood Falls exchange. New Ulm argued that this lack of commitment to serve this exchange in the past raises concerns about its commitment to serve in the future.

It argued that RCTC's application did not indicate the terms and conditions under which it will provide service and requested that RCTC be required to do so.

Finally, New Ulm argued that it was unclear as to whether RCTC will be operating as an incumbent local exchange carrier (ILEC) or a competitive local exchange carrier (CLEC) in the Redwood Falls exchange. It was concerned that if RCTC characterized itself as a ILEC it may receive universal service fund support for its operations in this exchange. If this were the case, New Ulm argued that it would give RCTC a competitive advantage and would be a misuse of public subsidy funds.

C. DOC

The DOC recommended that RCTC's petition be granted upon the following conditions:

- a) Commission approval of a 911 Plan;
- b) Commission approval of an interconnection agreement;
- c) Submission by RCTC of its proposed tariff for the Redwood Falls exchange, with the opportunity for comment;
- d) Inclusion by RCTC of its service areas in its annual customer notice required under Minn. Rules part 7812.1000 and Minn. Stat. § 237.66;
- e) Clarification that RCTC cannot receive universal service support for customers in the Redwood Falls exchange.

The DOC stated that RCTC's meeting these conditions would address the concerns of the City of Redwood Falls as well as concerns expressed by New Ulm.

D. RCTC's Reply Comments

RCTC stated that it believed the DOC's recommendations to be reasonable and agreed to abide by them.

In response to the suggestion that RCTC be required to post a performance bond, RCTC argued that the automatic revocation provided in the rules¹ and the fact that RCTC would lose any investment it has made in providing service in the exchange if its certificate was automatically revoked is incentive enough.

On the issue of RCTC's eligibility for universal service funds, RCTC indicated that it will operate as a CLEC in the Redwood Falls exchange and could only receive universal service funds if it was designated as an eligible telecommunications carrier (ETC) in this exchange. Further, since the ILEC, Qwest, receives no universal service funds, there would be no universal service funds available for RCTC.

III. Commission Action

The Commission agrees with the recommendations of the DOC that RCTC's request for an amended certificate of authority be granted, provided RCTC meets the conditions set forth by the DOC and agreed to by RCTC.

The Commission agrees that RCTC must meet the requirements for an approved 911 plan and interconnection agreement before the amended certificate becomes operational. Further, requiring RCTC to submit its proposed tariff for the Redwood Falls exchange prior to receiving this authority will give the City of Redwood Falls and New Ulm an opportunity to review and

¹ See Minn. Rules part 7812.0200, subp. 4.

comment on the service offerings of RCTC in this exchange. Finally, to ensure that customers are aware of RCTC's local service area in Redwood Falls, RCTC will be required to include its service areas in its annual customer notice.

The Commission also clarifies that RCTC cannot receive universal service support for its customers in the Redwood Falls exchange. A CLEC may not receive universal service support for an exchange unless the CLEC applies for and is granted ETC status in the exchange. Further, the CLEC may only receive the same level of support received by the incumbent telephone company, in this case Qwest, which does not receive universal service support for this exchange. RCTC has acknowledged, and the Commission concurs, that it will not be eligible for universal service support in this exchange.

ORDER

1. Redwood County Telephone Company's application for an Amended Certificate of Authority is hereby granted, conditional on the following:
 - a) Commission approval of a 911 plan;
 - b) Commission approval of an interconnection agreement;
 - c) Commission approval of RCTC's proposed tariff for the Redwood Falls exchange following opportunity for comment;
 - d) Inclusion of a description of RCTC's service areas in its annual customer notice required under Minn. Rules part 7812.1000 and Minn. Stat. §237.66.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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